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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 24th May, 2024

No. 13/2/123-HII(2)-2024/8266.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **11/2023** dated **09.04.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

CHANDIGARH GOVT. TRANSPORT WORKER'S UNION, CTU CHANDIGARH (REGD. & RECOGNIZED) THROUGH ITS PRESIDENT AND SECRETARY ON BEHALF OF SH. ASHOK KUMAR - EX-CONDUCTOR NO.206, CTU, CHANDIGARH. (Workman)

AND

THE DIVISIONAL MANAGER, CHANDIGARH TRANSPORT UNDERTAKING, U.T. CHANDIGARH. (Management)

AWARD

1. Chandigarh Govt. Transport Worker's Union, CTU Chandigarh (*here-in-after referred "workers' union"*) has presented industrial dispute under Section 2(k) of the Industrial Disputes Act, 1947 (*here-in-after in short called "ID Act"*).

2. Briefly stated the averments of claim statement are that on 23.06.2013 workman was performing his duties properly and had issued tickets to all the passengers and nobody was without ticket at the time of checking. Checking staff demanded way bill and running ticket copies for closing the tickets on the way bill. In compliance of the demand of Inspectors, workman handed over the same to the checking staff. Thereafter, the checking staff without consent of workman took away un-punched tickets and made a false report on way bill. The workman protested the action of the checking staff at the spot and also made note in this respect on the way bill in the presence of the checking staff. The checking staff did not conduct the checking as per rules. CTU has issued instructions dated 03.03.1987, 03.06.1999 and 13.12.2007 in order to avoid false implications of conductors and it has been made mandatory in these instructions to record the statements of passengers alleged to have given fare to the conductor and the conductor had not given tickets to them. The checking of cash was also necessary. In this case, neither statements of passengers were recorded nor cash of workman was checked. As per above mentioned instructions, it has been made clear that checking staff is to make detail note on the way bill but in this case no detailed note was given and note given by the workman

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was not taken into consideration. There are so many contradictions in the statements of witnesses and none of the witness have supported their original complaint. Allegations against the workman are that the workman had not issued tickets to three passengers who were travelling from Garshankar to Hoshiarpur but during inquiry the Inspectors in their cross-examination have stated that the alleged passengers were travelling from Mahalpur to Hoshiarpur. Further Avtar Singh in his cross-examination stated that he has no knowledge from where they boarded the bus and where he checked the bus. Moreover, note given by workman has not been disputed by the Inspectors. Therefore, contradictions prove false implication and innocence of the workman. Inquiry Officer has not conducted fair & proper inquiry. The version of workman is also supported by the statement of Driver. In spite of that punishment was imposed vide order dated 07.07.2017 / 29.08.2017 whereby 10% cut in pension was imposed. The Inquiry Officer as well as the Punishing Authority failed to consider the defence of the workman. The order of Punishing Authority is non-speaking in nature and has not given any findings for his conclusion. No reasoning has been given for rejection of defence of workman. The grounds taken in the representation have not been considered at all which were mandatory evidence and findings of Inquiry Officer have not been considered at all. The Inquiry Officer as well as Punishing Authority failed to appreciate that un-punched tickets were taken without consent of the workman, as admitted by checking staff themselves. Before checking, Inspectors had taken the tickets box in their possession and while returning the same they took away un-punched tickets without consent of the workman. After retirement punishment can be given only to recover the actual loss caused to the department by acts of workman or there is finding of Inquiry Officer that the workman had been found guilty for grave mis-conduct. In this case, there is no loss and also no finding that the workman has committed grave misconduct. Even the workman has deposited double cash in lieu of tickets of 2 passengers.

3. On 07.12.2013 workman was performing his duties with diligence and devotion and had issued tickets to all the passengers but inspecting staff made a false report for the reasons best known to them. It is specifically wrong that Inspectors had tried to charge 10 times fare and the workman admitted his fault. It is also denied that the workman put his signatures. The workman has not committed any misconduct and he has been falsely implicated. The checking staff did not conduct the checking as per rules. CTU has issued instructions dated 03.03.1987, 03.06.1999 and 13.12.2007 in order to avoid false implications of conductors and it has been made mandatory in these instructions to record the statements of passengers alleged to have given fare to the conductor and the conductor had not given tickets to them. The checking of cash was also necessary. In this case, neither statements of passengers were recorded nor cash of workman was checked. As per above mentioned instructions, it has been made clear that checking staff is to make detail note on the way bill but in this case no detailed note was given and note given by the workman was not taken into consideration. There are so many contradictions in the statements of witnesses and none of the witness have supported their original complaint. The Inquiry Officer as well as the Punishing Authority failed to consider the defence of the workman. The order of Punishing Authority is non-speaking in nature and has not given any findings for his conclusion. No reasoning has been given for rejection of defence of workman. The grounds taken in the representation have not been considered at all. Though two charge-sheets were issued but punishment have been given jointly by one order. The Inquiry Officer as well as Punishing Authority failed to appreciate that un-punched tickets were taken without consent of the workman, as admitted by checking staff themselves. Before checking, Inspectors had taken the tickets box in their possession and while returning the same they took away un-punched tickets without consent of the workman. After retirement punishment can be given only to recover the actual loss caused to the department by acts of workman or there is finding of Inquiry Officer that the workman had been found guilty for grave mis-conduct. Against the punishment order dated 07.07.2017 / 29.08.2017 the workman filed an appeal but the Appellate Authority have not considered the grounds taken by the workman in his appeal and no reason have been given for the rejection of the same. The Appellate Authority dismissed the appeal of the workman by a non-speaking order dated 21.02.2018 / 26.03.2018. The workman had retired from service on 31.12.2016. The workman made several requests to withdraw the illegal order dated 07.07.2017 / 29.08.2017 and 21.02.2018 / 26.03.2018 but all in vain. Hence, the present demand notice. Prayer is made that the reference of the workman may be accepted and the illegal order of punishment dated 07.07.2017 / 29.08.2017 and order of Appellate Authority dated 21.02.2018 / 26.03.2018 may be set aside and all the monetary benefits may be released to the workman along with interest @ 12% per annum which were withheld by virtue of these illegal orders.

4. On notice, management contested the claim statement by filing written statement / reply on 18.05.2023 wherein preliminary submissions are made to the effect that the claim statement deserves to be dismissed on the ground that the workman is hiding the material facts from this Court as the workman is a habitual offender and he has been awarded various punishments in the frauds committed by him at various occasions. The history sheet in respect of Shri Ashok Kumar (C.No.206) is as follows :—

Sr. No.	Punishment	Remarks
1.	Under suspension vide O/o No. 543 dated 11.03.1985 and reinstated in service vide O/o No.1315 dated 27.06.1985.	Two increments stopped without cumulative effect vide O/o No.1994 dated 23.09.1985
2.	Under suspension vide O/o No.1335 dated 02.07.1985 and reinstated in service on 05.09.1985	Three increments stopped with cumulative effect vide O/o No.1840 dated 05.09.1985.
3.	Under suspension vide O/o No. 230 dated 21.01.1986 and reinstated in service on 18.02.1986	Four increments stopped without cumulative effect vide O/o No.471 dated 18.02.1986
4.	In a fraud case of ₹ 2.80/-	Two increments stopped without cumulative effect vide O/o No.373 dated 10.02.1987.
5.	In a fraud case of ₹ 3/-	Two increments stopped without cumulative effect vide O/o No.3236 dated 08.07.1988.
6.	In a fraud case of ₹ 2/-	One increment stopped without cumulative effect vide O/o No.4801 dated 27.10.1988.
7.	Under suspension vide O/o No.21 dated 12.06.1989 and reinstated in service on 26.07.1989	Service censured vide O/o No. 218 dated 19.09.1990.
8.	Under suspension vide O/o No. 1648 dated 15.06.1990 and reinstated in service on 03.08.1990.	Three increments stopped with cumulative effect vide O/o No.2461 dated 15.11.1991.
9.	Under suspension vide O/o No. 173 dated 14.09.1990 and reinstated in service on 18.09.1990.	Service censured vide O/o No.1767 dated 13.09.1991.
10.	Under suspension vide O/o No. 345 dated 12.05.1993 and reinstated in service 14.05.1993.	Recovery of ₹ 1,800/-, U/s period limited to the grant of subsistence allowance vide O/o Endst. No.15575 dated 27.09.2018.
11.	Under suspension vide O/o No. 726 dated 27.09.1994 and reinstated in service on 14.12.1994.	Recovery of ₹ 1,800/-, U/s period limited to the grant of subsistence allowance vide O/o Endst. No.15575 dated 27.09.2018.
12.	Under suspension vide O/o No. 316 dated 12.05.1994 and reinstated in service on 01.07.1994.	One increment stopped with cumulative effect vide O/o No.375 dated 11.03.2003.
13.	Under suspension vide O/o No. 120 dated 28.02.1995 and reinstated in service on 30.03.1995.	Service censured and his suspension period limited S.A. only vide O/o No. 889 dated 29.09.1995.

14.	Under suspension vide O/o No. 630 dated 18.10.1995 and reinstated in service on 24.11.1995.	One increment stopped with cumulative effect vide O/o No.1182 dated 22.12.1998.
15.	Under suspension vide O/o No. 469 dated 15.07.1997 and reinstated in service on 12.09.1997	One increment stopped with cumulative effect vide O/o No.559 dated 14.05.2002.
16.	Under suspension vide O/o No. 557 dated 12.05.1998 and reinstated in service on 18.06.1998.	Two increments stopped without cumulative effect vide O/o No.307 dated 24.03.2000.
17.	Under suspension vide O/o No. 1088 dated 21.09.1998 and reinstated in service on 06.10.1998.	Two increments stopped without cumulative effect vide O/o dated 24.01.2000.
18.	Under suspension vide O/o No. 2067 dated 04.05.1999 and reinstated in service on 21.05.1999.	One increment stopped without cumulative effect vide O/o No.1014 dated 22.11.2001.
19.	Under suspension vide O/o No. 2367 dated 29.07.1999 and reinstated in service on 13.10.1999.	Two increments stopped with cumulative effect vide O/o No.1263 dated 13.10.1999.
20.	Under suspension vide O/o No. 153 dated 07.03.2001 and reinstated in service on 06.09.2001.	Four increments stopped with cumulative effect vide O/o No.2239 dated 02.12.2005.
21.	Under suspension vide O/o No. 447 dated 05.09.2002 and reinstated in service on 16.10.2002.	One increment stopped with cumulative effect vide O/o No.1025 dated 16.10.2002.
22.	Under suspension vide O/o No. 568 dated 20.11.2001 and reinstated in service on 31.12.2001.	Two increments stopped without cumulative effect vide O/o No.863 dated 07.07.2003.
23.	Under suspension vide O/o No. 05 dated 24.01.2005 and reinstated in service on 07.03.2005.	Three increments stopped with cumulative effect vide O/o dated 07.03.2005.
24.	Under suspension vide O/o No.184 dated 19.05.2005 and reinstated in service on 30.05.2005.	One increment stopped without cumulative effect vide O/o dated 15.06.2010.
25.	Under suspension vide O/o No. 274 dated 13.07.2005 and reinstated in service on 12.08.2005.	Service censured and suspension period limited to S.A. vide O/o No. 1522 dated 15.09.2005.
26.	Under suspension vide O/o No. 92 dated 30.04.2013 and reinstated in service on 23.05.2013.	Warning issued vide O/o dated 06.02.2017.
27.	Under suspension vide O/o No. 24 dated 26.06.2013 and reinstated in service on 29.07.2013.	Reduced pension 10% for a period of five years vide O/o No.14034 dated 29.08.2017.

5. It is further stated that facts submitted by the workman are *supprescio veri* and *exprescio falsi* to the extent that the workman has completely suppressed true and material facts in the present statement of claim and as such approached this Court with unclean hands. The workman though in the present claim statement has prayed to set aside order of punishment dated 07.07.2017 / 29.08.2017 and order of Appellate Authority dated 21.02.2018 / 26.03.2018 vide which punishment of stoppage of two annual increments with cumulative effect was awarded by the Competent Authority. The workman has not availed the remedy of review petition as available under Rule 21 of Punishment & Appeal Rules, which is reproduced as under :-

"21. Review- (1) Notwithstanding anything contained in these rules -

- i) the Governor; or*
- ii) the Appellate Authority, within six months of the orders proposed to be reviewed; or*
- iii) any other authority, specified in this behalf by the Governor by a general or special orders, and within such time as may be prescribed in such general or special orders;*
may at any time, either on his or its own motion or otherwise call for records of any inquiry and review any orders made under these rules or under the rules repealed by Rule 25 from which an appeal is allowed, but from which no appeal has been preferred or form which no appeal is allowed, after consultation with the commissioner where such consultation is necessary and may -
 - a) confirm, modify or set aside the order; or*
 - b) confirm, reduce, enhance or set aside the penalty imposed by the other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or*
 - c) remit the case to authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or*
 - d) pass such other orders as it may deem fit:*

Provided that no order imposing or enhancing any penalty shall be made by any Reviewing Authority unless the Government employee concerned have been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of Rule 5 or to enhance the penalty imposed by the order sought to be reviewed to any to enhance the penalty specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in Rule 8 and except after consultation with the Commission, where such consultation is necessary."

6. It is further stated that present claim statement is liable to be dismissed as the charges stand established against the workman on evidence. Besides, the penalty was lawfully imposed by the Disciplinary Authority and upheld by the Appellate Authority has been imposed on the proved misconduct. The penalty imposed upon the workman is proportionate to the gravity of charges levelled and proved against the workman and as such is liable to be upheld. There is no procedural lapse or irregularity in the passing of impugned orders. It is well settled law that strict rules of evidence are not applicable to the departmental inquiry proceedings. The only requirement of law is that the allegation against the delinquent official should be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at findings upholding the charges against the delinquent officer. The Court exercising jurisdiction of judicial review would not interfere with the findings of facts arrived at in the departmental inquiry proceedings except in a case of malafide or perversity. The Court cannot embark upon re-appreciating the evidence

weighting the same like an Appellate Authority. Shri Ashok Kumar - Ex. C.No.206 was placed under suspension vide office order No.DT/CTU/2013/24 dated 26.06.2013 and also charge sheet vide office order No.8136/TA-I/HO/CTU/2013 dated 25.07.2013 for following charges :-

"On 24.6.2013 S/Sh. Surmukh Singh & Avtar Singh, Inspectors reported that on 23.06.2013, they checked bus No.CH-01G1-7528 at 11:50 A.M. of route No.131 at Hoshiarpur (By pass). Sh Ashok Kumar - C.No.206, was on duty with the said bus. During the course of checking, they found that three passengers were travelling without tickets who had boarded the bus from Gardshankar to Hoshiarpur and paid Rs.81/- @ Rs.27/- as fare to the conductor but the conductor did not issue tickets to them. The checking staff tried to charge ten times of the fare from the passengers, but they refused by saying that they had already paid full fare to the conductor. The conductor admitted his fault in the presence of the passengers and gave unpunched tickets of Rs.81/- to the checking staff and also put his signatures on the waybill. In this way, Sh. Ashok Kumar, C.No.206 defrauded Rs.81/- from the Govt. Revenue, which amounts to grave misconduct / misappropriation on his part."

7. The charge sheet was issued vide office order No.15828/TA-I/HO/CTU/2014 dated 08.12.2014 for the following charges :-

"On 10.12.2013 S/Sh. Jai Karan & Ved Parkash, Inspectors reported that on 7.12.2013, they checked Bus No.CH-01G1-7565 at route No.96 at Mani Majra at 10:10 hours, Sh. Ashok Kumar, C.No.206 was on duty with the said bus. During the course of checking, they found that two passengers were alighted without tickets who had boarded the bus from Panchkula to Manimajra. The said conductor collected Rs.20/- @ Rs.10/- each as fare from the passengers, but he did not issue tickets to them. The checking staff tried to charge ten time of the fare from the passengers, but they refused by saying that they had already paid full fare of Rs.20/- to the conductor. The conductor admitted his fault in the presence of the passengers and gave un-punched tickets of Rs.20/- to the checking staff and put his signatures on the waybill note. In this way, Sh. Ashok Kumar, C.No.206 defrauded Rs.20/- from the Govt. revenue, which amounts to grave misconduct / misappropriation on his part."

8. The workman submitted his reply to the charge sheet issued on 25.07.2013 and 08.12.2014. The reply was considered and found unsatisfactory by the Competent Authority and ordered to hold a regular departmental inquiry against the said Conductor by appointing Inquiry Officers. The Inquiry Officer submitted their inquiry reports vide No.57 dated 08.04.2016 against charge sheet No.8136/TA-I/HO/CTU/2013 dated 25.07.2013 and inquiry report vide No.32 dated 08.11.2016 against charge sheet No.15828/TA-I/HO/CTU/2014 dated 08.12.2014 wherein they held that the charges levelled against the workman in the said charge sheet stands proved. Copy of inquiry reports were supplied to the workman vide Memo No.4138/DT/HOD/TA-I, II & III/CTU/2017 dated 08.05.2017 and Memo No.6371/DT/HOD/TA-I, II & III/CTU/2017 dated 08.06.2017 to make a representation against the same, if any. Shri Ashok Kumar, C.No.206 failed to submit his representation against the inquiry reports. The workman was called for personal hearing on 07.07.2017 and Punishing Authority / Competent Authority ordered to reduce pension by 10% of Shri Ashok Kumar - Ex. C.No.206 for a period of 5 years and his suspension period be limited to the grant of subsistence allowance only vide office order No.14034 dated 29.08.2017 which is legal and just in the eyes of law. The workman filed an appeal against the order No.14034 dated 29.08.2017 passed by the Divisional Manager, CTU and Director Transport, U.T. Chandigarh. The appeal was dismissed by the Appellate Authority vide order dated 26.03.2018 being devoid of any merits.

9. Further on merits, similar stand is taken as taken in the preliminary submissions. It is stated that as far as departmental inquiry of charge sheet No.8136/TA-I/HO/CTU/2013 dated 25.07.2013 is concerned, all the prosecution witnesses were examined during the departmental proceedings who fully supported the version of the prosecution, hence, the charges stand proved against the workman. Further with

regard to destination and boarding station of the case, the word Garshankar was used / mentioned inadvertently instead of Mahalpur in the report made by the checking staff and the same was made clear in the prosecution evidence during inquiry proceedings. Note on the way bill by the workman was not recorded in the presence of Inspectors. The Driver was produced by the workman himself in the departmental proceedings to tender his statement and naturally he would give a statement in favour of the workman. The said Driver was not summoned by the Inquiry Officer. Moreover, in the cross-examination, Shri Pawan Kumar - D.No.208, as a defence witness admitted that he does not remember whether the checking staff got down from the bus after checking and he does not remember the distance between the Seila and Mahalpur. The order dated 07.07.2007 / 29.08.2007 is legal and just in the eyes of law. The Inquiry Officer has conducted the inquiry in a proper and fair manner. Notices were duly served to the workman during the inquiry proceedings and the workman appeared before the Inquiry Officer through co-worker and the statement of prosecution witnesses were recorded who were also cross-examined. Thereafter full opportunity of defence was also afforded to the workman and he submitted his defence statement before the Inquiry Officer. The Inquiry Officer after considering all the facts, documents and evidence submitted his inquiry report wherein the charges levelled against the workman stands proved. It is wrong to allege that Inquiry Officer failed to consider the defence of the workman. Further copy of inquiry report was supplied to the workman vide Memo No.4138/DT/HOD/TA-I, II & III/CTU/2017 dated 08.05.2017. The Competent Authority afforded due opportunity to the workman to defend his case and departmental inquiry report was duly considered by the Competent Authority and personal hearing was also afforded before passing the impugned order dated 07.07.2017, 29.08.2017. The orders legal and just in the eyes of laws. As far as inquiry to the charge sheet No.15828/TA-I/HO/CTU/2014 dated 08.12.2014 is concerned the Inquiry Officer has conducted the inquiry in a proper & fair manner. Notices were duly served upon the workman during the inquiry proceedings and the workman appeared before the Inquiry Officer through co-worker. The statements of prosecution witnesses were recorded, who were also cross-examined and thereafter full opportunity of defence was afforded to the workman. The workman submitted his defence statement before the Inquiry Officer. The Inquiry Officer after considering all the facts, documents and evidence submitted his inquiry report wherein the charges levelled against the workman stands proved. A copy of inquiry report was supplied to the workman vide Memo No.6371/DT/HOD/TA-I, II & III/CTU/2017 dated 08.06.2017 with the request to make representation against the same if any. The workman failed to submit his representation against the inquiry report. The workman was called for personal hearing in connection with Memo No.6371 dated 08.06.2017 already issued to him. The Competent Authority after affording due opportunity to the workman Shri Ashok Kumar - C.No.206, to defend his case and departmental inquiry was duly considered by the Competent Authority and personal hearing was also afforded before passing the impugned order dated 07.07.2017 / 29.08.2017. The orders are legal, just and sustainable in the eyes of law. Rest of the averments of the claim statement are denied as wrong and prayer is made that claim statement may be dismissed being devoid of any merits and time barred.

10. The workman filed rejoinder wherein the contents of the written statement / written reply except admitted facts are denied as wrong and averments of claim statement are reiterated.

11. From the pleadings of the parties, following issues are framed vide order dated 02.06.2023 :-

1. Whether the order of punishment dated 07.07.2017 / 29.08.2017 and order of Appellate Authority dated 21.02.2018 / 26.03.2018 are illegal, if so it's effect and what relief the workman was entitled, if any ? OPW
2. Whether the workman has concealed the material facts ? OPM
3. Whether the departmental inquiry was conducted in a fair and just manner ? OPM
4. Relief.

12. In evidence, workers' union examined workman Ashok Kumar as AW1, who tendered his affidavit Exhibit 'AW1/A' along with copies of documents Exhibit 'W1' to Exhibit 'W6'.

Exhibit 'W1' is order dated 13.12.2007.

Exhibit 'W2' is order dated 03.06.1999.

Exhibit 'W3' is order dated 03.03.1987.

Exhibit 'W4' is punishment order dated 07.07.2017 / 29.08.2017.

Exhibit 'W5' is appeal dated nil filed by workman against the punishment order dated 07.07.2017 / 29.08.2017.

Exhibit 'W6' and order dated 21.02.2018 passed in Appeal No. 5/17-CTU passed by Secretary Transport, U.T. Chandigarh.

13. On 19.01.2024 the workman Ashok Kumar closed evidence in affirmative.

14. On the other hand, management examined MW1 Amarjot Singh - Senior Assistant, CTU, O/o Divisional Manager, CTU & Director Transport, U.T. Chandigarh, who tendered his affidavit Exhibit 'MW1/A'.

15. On 20.07.2023 workers' union moved an application for issuing directions to the management to place on record the complete inquiry file. After taking reply from the management, vide order dated 10.10.2023 the management was directed to produce the complete inquiry file of the workman Ashok Kumar - Ex. Conductor No.206, CTU, Chandigarh relating to punishment order dated 07.07.2017 / 29.08.2017. On 27.10.2023 Amarjot Singh - Senior Assistant tendered on record the attested copy of inquiry file consisting of page No.1 to 120. On 11.03.2024 Learned Law Officer tendered into management's evidence attested copy of inquiry file vide Exhibit 'M1' and closed oral evidence. On 09.04.2024 Learned Law Officer closed documentary evidence.

16. I have heard the arguments of Learned Representative for the workers' union and Learned Law Officer for management and perused the judicial file. My issue-wise findings are as under :-

Issues No. 1 & 3 :

17. Both these issues are taken up together being interconnected and in order to avoid repetition of discussion.

18. Onus to prove issue No.1 is on the workers' union / workman and onus to prove issue No.3 is on the management.

19. In order to prove the claim statement workman Ashok Kumar examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity. AW1 supported his oral version with documents Exhibit 'W1' to Exhibit 'W6'.

20. On the other hand, management examined MW1 Amarjot Singh - Senior Assistant, CTU, who vide his affidavit Exhibit 'MW1/A' deposed the entire contents of the written statement which are not reproduced here to avoid repetition. To support his oral version Learned Law Officer referred inquiry file Exhibit 'M1'.

21. From the oral as well as documentary evidence led by the parties, it comes out that workman Ashok Kumar was served with two charge sheets. First charge sheet bears order No.8136/TA-I/HO/CTU/2013 dated 25.07.2013 whereby the following charge was served upon the workman :-

"On 24.6.2013 S/Sh. Surmukh Singh & Avtar Singh, Inspectors reported that on 23.06.2013, they checked bus No.CH-01G1-7528 at 11:50 A.M. of route No.131 at Hoshiarpur (By pass). Sh Ashok Kumar - C.No.206, was on duty with the said bus. During the course of checking, they found that three passengers were travelling without tickets who had boarded the bus from Gardshankar to Hoshiarpur and paid Rs.81/- @ Rs.27/- as fare to the conductor but the conductor did not issue tickets to them. The checking staff tried to charge ten times of the fare from the passengers, but they refused by saying that they had already paid full fare to the conductor. The conductor admitted his fault in the presence of

the passengers and gave unpunched tickets of Rs.81/- to the checking staff and also put his signatures on the waybill. In this way, Sh. Ashok Kumar, C.No.206 defrauded Rs.81/- from the Govt. Revenue, which amounts to grave misconduct / misappropriation on his part."

22. Second charge sheet bears order No.15828/TA-I/HO/CTU/2014 dated 08.12.2014 whereby the following charge was served upon the workman :-

"On 10.12.2013 S/Sh. Jai Karan & Ved Parkash, Inspectors reported that on 7.12.2013, they checked Bus No.CH-01G1-7565 at route No.96 at Mani Majra at 10:10 hours, Sh. Ashok Kumar, C.No. 206 was on duty with the said bus. During the course of checking, they found that two passengers were alighted without tickets who had boarded the bus from Panchkula to Manimajra. The said conductor collected Rs.20/- @ Rs.10/- each as fare from the passengers, but he did not issue tickets to them. The checking staff tried to charge ten time of the fare from the passengers, but they refused by saying that they had already paid full fare of Rs.20/- to the conductor. The conductor admitted his fault in the presence of the passengers and gave un-punched tickets of Rs.20/- to the checking staff and put his signatures on the waybill note. In this way, Sh. Ashok Kumar, C.No.206 defrauded Rs.20/- from the Govt. revenue, which amounts to grave misconduct / misappropriation on his part."

23. In both the charges separate inquiry proceedings were conducted. Inquiry into the charge sheet No.8136/TA-I/HO/CTU/2013 dated 25.07.2013 was conducted by Inquiry Officer Shri Krishan Jaspal - Law Officer and inquiry into charge sheet No.15828/TA-I/HO/CTU/2014 dated 08.12.2014 was conducted by Inquiry Officer Shri Anil Kumar - Law Officer - III. After conducting the inquiries into both the above said charge sheets, the respective Inquiry Officers submitted their detailed inquiry reports to the Punishing Authority. In connection with both the above-mentioned charge sheets, the delinquent official Ashok Kumar (*here-in workman*) was imposed punishment vide single punishment order Exhibit 'W4' i.e. order dated 07.07.2017 bearing endorsement No.14034/EAC-I/CTU/2017 dated 29.08.2017, passed by Punishing Authority Shri Amit Talwar - Divisional Manager, CTU and Director Transport, U.T. Chandigarh. The operative part of Exhibit 'W4' is reproduced as below :-

"Now, therefore, the undersigned keeping in view the facts and circumstances of the case and in exercise of the powers conferred upon me under the Punjab Civil Services (Punishment & Appeal) Rules, 1970 read with 2.2 (b) does hereby ordered to reduce pension by 10% of Sh.Ashok Kumar, Ex.C.No.206 for a period of five years and his suspension period be limited to the grant of subsistence allowance only."

24. The workman filed appeal Exhibit 'W5' against the punishment order dated 07.07.2017 bearing endorsement dated 29.08.2017 which was decided vide order dated 21.02.2018 bearing endorsement No.05/17-CTU-(R&J)/2018/4248 dated 26.03.2018 / Exhibit 'W6' passed by Appellate Authority Shri K. K. Jindal - IAS, Secretary Transport, Chandigarh Administration. The operative part of Exhibit 'W6' is reproduced as below :-

"During the course of hearing, the appellant had nothing to say except a request to take a sympathetic and lenient view as he has already retired from service. On the other hand, the representatives on behalf of the C.T.U. produced service record of the delinquent official whereby it is revealed that since 1985 upto the date of present charge-sheets several punishments have been imposed upon the appellant on grounds of misconducts for more than 24 times. In reply to this, the appellant has failed to produce any concrete evidence which could either controvert the findings of the authority or support the contention of the appellant."

In view of his service record, it is apparent that the competent authority has already taken a lenient view while passing the impugned order dated 7.7.2017 and no further leniency deserves to be taken in the instant case. Hence, I do not find any infirmity in the order dated 7.7.2017 passed by the Director Transport, U.T. Chandigarh (CTU), and therefore uphold the same.

Consequently, the appeal being devoid of any merit is dismissed."

25. In the present case, the workman has challenged the inquiry report of charge sheet relating to checking conducted by the checking staff on 23.06.2013 on the ground that the instructions dated 03.03.1987 / Exhibit 'W3', instructions dated 03.06.1999 / Exhibit 'W2' and instructions dated 13.12.2001 / Exhibit 'W1' have not been followed by the checking staff consisting of Shri Surmukh Singh and Shri Avtar Singh - Inspectors. Much stress is laid upon the fact that the statements of the passengers alleged to have given fare to the Conductor to whom the tickets were allegedly not issued by the Conductor were not recorded and the cash of the Conductor was not checked. On the other hand, Learned Law Officer argued that the non-compliance of instructions Exhibit 'W1' to Exhibit 'W3' does not vitiate the inquiry proceedings. The Inquiry Officer would be justified in acting upon the evidence of the checking staff even if the passengers themselves were not examined as witnesses. Furthermore, the workers' union has failed to point out any procedural defect in the inquiry proceedings. Admittedly, the inquiry proceedings were conducted in a fair manner. To support his arguments, Learned Law Officer referred the recent ***judgment of the Hon'ble High Court of Punjab & Haryana passed on dated 24.08.2023 in CWP-333-2023 (O&M) titled as Yadvinder Singh Versus Presiding Officer, Industrial Tribunal & Labour Court, U.T. Chandigarh, Sector 18, Chandigarh & Others*** wherein it is held as below :-

"7. Learned counsel for the petitioner contends that the Inquiry Officer has not conducted the inquiry in a proper manner, inasmuch as that the statements of the passengers (from whom the petitioner is alleged to have taken money but not issued tickets), were recorded nor the cash of the petitioner was checked. It is, therefore, contended that the inquiry against the petitioner was vitiated. It is stated that even the passengers themselves have not been examined as witnesses and the finding of guilt has been arrived at by the Inquiry Officer purely on the basis of hearsay. It is also contended that the punishment awarded to the petitioner was not proportionate to the charge against him.

8.

9.

10.

*11. As regards the other contention that the inquiry proceedings were vitiated as the finding of guilt was arrived at purely on the basis of hearsay, it is observed that the Full Bench of this Court in the case of **State of Haryana and another versus Sh. Ram Chander, 1976(2) SLR 690**, has held that there is no bar against the reception of hearsay evidence by domestic tribunals. It has been held that the enquiry officer would be justified in acting upon the evidence of the checkers stating these facts even though the passengers themselves were not examined as witnesses. It was observed that a finding of guilt arrived at by him would not be based on pure hearsay and it would be based on the evidence of the checker that he found passengers travelling without tickets and the statements made by the passengers to the checker at the time of checking. The following observations made in the above-referred judgment would be relevant:-*

"Where a bus is checked and it is found that tickets have not been issued to several passengers and the passengers state in the presence of the conductor that they paid the fare, the enquiry officer would be justified in acting upon the evidence of the checkers stating these facts even though the passengers

themselves are not examined as witnesses. A finding of guilt arrived at by him would not be based on pure hearsay. It would be based on (1) the evidence of the checker that he found passengers travelling without tickets, and (2) the statements made by the passengers to the checker at the time of checking. The second item of evidence alone would be hearsay but it would be hearsay of high probative value because of the circumstances that statements were made in the presence of the conductor and on the spot. In such a case, it cannot be said that the enquiry officer's findings are based on pure hearsay or hearsay of unreliable nature."

12. *In Rattan Singh's case (supra), it has also been held that in a domestic enquiry the strict and sophisticated rules of evidence under the Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. The sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny."*

26. To my opinion, though the punishment order Exhibit 'W4' and order of appeal Exhibit 'W6' pertains to two charge sheet i.e. charge sheet No.8136/TA-I/HO/CTU/2013 dated 25.07.2013 and charge sheet No.15828/TA-I/HO/CTU/2014 dated 08.12.2014 but the workers' union has challenged the inquiry proceedings only of charge sheet No.8136/TA-I/HO/CTU/2013 dated 25.07.2013 and did not challenge the inquiry proceedings of charge sheet No.15828/TA-I/HO/CTU/2014 dated 08.12.2014. As far as charge sheet No.8136 is concerned, the same pertains to checking of bus No.CH-01G1-7528 of route No.131 at Hoshiarpur Bye-pass conducted by checking staff consisting of Shri Surmukh Singh and Shri Avtar Singh - Inspectors. The workman Ashok Kumar / AW1 when put to cross-examination admitted as correct that another checking was conducted by Inspector Shri Avtar Singh and Shri Surmukh Singh on 23.06.2013 at route No.131 wherein he was on duty. AW1 admitted as correct that three passengers were found travelling without tickets from Garshankar to Hoshiarpur @ ₹ 27/- each as fare. AW1 admitted as correct that the inspectorate staff tried to charge 10 times of the fare from passengers but they refused by saying that they had already paid the fare. AW1 admitted as correct that by admitting his fault before the inspectorate staff, he gave un-punched tickets to the inspectorate staff and put his signatures on the way bill voluntarily. The volunteer statement of AW1 that he had issued the tickets to those passengers who found without tickets and they have misplaced their tickets and further volunteer statement of AW1 that he gave un-punched tickets to void report of misbehaviour against him is not believe-able being without any corroboration. By appreciating the evidence of the workman adduced in this case, nothing has come on record to assume that the findings of the Inquiry Officer are perverse. Above all, AW1 in his cross-examination admitted as correct that the fair inquiry was conducted by the Inquiry Officer. AW1 admitted as correct that the inquiry was proved against him. AW1 further admitted as correct that before issuing the punishment order he was given personal hearing by the Punishing Authority. From the aforesaid version of AW1 it is sufficiently proved on record that the inquiry proceedings and the inquiry report in the matter of charge sheet No.8136 are just & fair.

27. As far as inquiry report of charge sheet No.15828 is concerned, as discussed above, the workman has not challenged the same. Moreover, the workman Ashok Kumar, AW1 when put to cross-examination admitted as correct that on 07.12.2013 he was on route with bus No.CH-01G1-7565 at route No.96. AW1 admitted as correct that Shri Jai Karan and Shri Ved Parkash, Inspectors checked the bus and found that two passengers were travelling without tickets from Panchkula to Manimajra. AW1 admitted as correct that the checking staff tried to charge 10 times of fare from passengers but they refused by saying that they had already paid full fare ₹ 20/- to the conductor. The volunteer statement of AW1 that he was in the process of issuing tickets and the passenger said so to protect themselves from paying 10 times of fare, is not believable being without any corroboration. AW1 in his cross-examination admitted as correct that he admitted his fault in the presence of the passengers and gave un-punched tickets of ₹ 20/-. AW1 admitted as correct that the charge sheet was issued against him by the department and he submitted the reply dated 18.12.2014 to the charge sheet wherein he has given his admission and admitted his fault and request that he does not want to get conducted any departmental inquiry and also requested that his case would be decided by taking lenient view. AW1 further stated that he has given written admission voluntarily without any pressure. From the

aforsaid version of AWI it is sufficiently proved on record that the inquiry proceedings in the matter of charge sheet No.15828 were conducted in a fair and proper manner and the delinquent official / workman was held guilty on the ground of volunteer confession made by him. The judgment of our own Hon'ble High Court in **CWP No.333-2023 (O&M) (supra)** referred by Learned Law Officer is applicable to the facts of the present case to an extent.

28. It is argued by Learned Representative for the workers' union that the workman retired from service on 31.12.2016. The punishment order dated 07.07.2017 / endorsement dated 29.08.2017 / Exhibit 'W4' has been passed after the retirement of the workman under Rule 2.2(b) of Punjab Civil Services (Punishment & Appeal) Rules, 1970 Volume - II whereby the workman's pension has been reduced for a period of five years and his suspension period is limited to the grant of subsistence allowance only. It is further argued by Learned Representative for the workers' union that the Punishing Authority has not recorded any finding as to guilt of grave misconduct. Rule 2.2 of the Punjab Civil Services Rules deals with recoveries from pension. Under Clause (b) of Rule 2.2 of Punjab Civil Services Rules, Volume - II, the Government reserves to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering of recovery from a pension of the whole or part of any pecuniary loss caused to the Government, if in a departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement. As per Rule 2.2(a) of Punjab Civil Services Rules, the Government has to satisfy itself that the pensioner is prima-facie guilty of misconduct and as per Rule 2.2(b) recovery from pension can be affected only when pensioner is found to be guilty of grave misconduct or negligence. Apart from the above there is another condition under Rule 2.2(b) of Punjab Civil Services Rules that recovery from the pension can be affected when there is pecuniary loss to the Government. In the present case, the Punishing Authority failed to satisfy Rule 2.2(b) of the Punjab Civil Services Rules before passing punishment order Exhibit 'W4'. To support his arguments Learned Representative for the worker's union referred the **judgment dated 07.08.1990 of Hon'ble Supreme Court of India in C.A. No.5025 of 1985 titled as D. V. Kapoor Versus Union of India & Others, reported in 1990 AIR (SC) 1923 and judgment dated 24.04.2023 passed by the Hon'ble High Court of Punjab & Haryana in CWP No.20173-2018 titled as Kanwaljit Singh Versus State of Punjab & Another.** To my opinion, the law laid down in the **judgments dated 07.08.1990 and 24.04.2023 (supra)** is well recognised by this Court but the ratio of the rulings is not applicable to the facts of the present case because in this case joint punishment order dated 07.07.2017 / endorsement dated 29.08.2017 Exhibit 'W4' has been passed in connection with two departmental inquiries conducted independently relating to charge sheet No.8136 dated 25.07.2013 and charge sheet No.15828 dated 08.12.2014. The workers' union in the present case has challenged the procedure and findings of inquiry proceedings relating to charge sheet No.8136 dated 25.07.2013. The workers' union has not assailed at the charge sheet No.15828 dated 08.12.2014 and the departmental proceedings relating to charge sheet No.15828 dated 08.12.2014. As per the inquiry file Exhibit 'M1' the charges of charge sheet No.15828 dated 08.12.2014 were voluntarily admitted by the workman by submitting a written confession statement on 22.09.2016 wherein the workman stated that he admits his fault and he does not want to face the departmental inquiry in the said case. He further stated that he is giving this confession with his free consent and that his case may be decided by taking lenient view. The Inquiry Officer while recording the findings of charge sheet No.15828 dated 18.12.2014 (internal page No.31 of inquiry file Exhibit 'M1') mentioned as below :-

"Shri Ashok Kumar, Conductor No.206 appeared before the undersigned on 22.09.2016 and submitted a written confessional statement, wherein he stated that he admits his fault and he does not want to face the departmental inquiry in the said case. He also stated that he is giving this confession with his free consent. Further, he stated that his case may be decided by taking a lenient view.

In view of the above said confessional statement of the delinquent official the charges levelled against Shri Ashok Kumar, Conductor No.206 vide Memo No. 15828/TA.I/HO/CTU/2014 dated 08.12.2014 stands proved."

29. It is pertinent to mention here that in para 2 of the charge sheet, it was specifically mentioned that by doing so the said Shri Ashok Kumar, Conductor No.206 has acted in a manner unbecoming of Government servant violating the provisions of Rule 3 of the Government Employees (Conduct) Rules, 1966 calling for disciplinary action against him for defrauding of ₹ 20/- from the Government revenue, which amounts to grave misconduct on his part.

30. Findings of the Inquiry Officer read with abovementioned para of the charge sheet, it is sufficiently proved on record that in connection with charge sheet No.15828 dated 08.12.2014, the workman is proved to have guilty of grave misconduct for defrauding of ₹ 20/- from the Government revenue. In this manner, the workman is proved to have caused pecuniary loss to the Government. Moreover, the workman / AW1 when put to cross-examination stated that it is correct that he admitted his fault in the presence of the passengers and gave un-punched tickets of ₹ 20/-. AW1 admitted as correct that charge sheet was issued against him by the department. He has submitted the reply dated 18.12.2014 to the charge sheet wherein he has given his admission and admitted his fault and requested that his case would be decided by taking lenient view. He has given written admission voluntarily without any pressure. From the aforesaid version of AW1, it is duly proved into evidence that the workman has admitted the charge of grave misconduct and misappropriation of ₹ 20/- on his part causing pecuniary loss to the Government revenue. There is no challenge to the charge sheet No.15828 dated 08.12.2014, the findings of the inquiry of charge sheet No.15828 dated 08.12.2014 and the punishment order dated 07.07.2017 / endorsement dated 29.08.2017 / Exhibit 'W4' qua charge sheet No.15828 dated 08.12.2014. Under the circumstances, punishment order Exhibit 'W4' does not suffer from any infirmity. Likewise, order of appeal dated 21.02.2018 / endorsement dated 26.03.2018 / Exhibit 'W6' is well reasoned and valid. The workman has not alleged any hostility against the Inquiry Officers, Punishing Authority as well as Appellate Authority.

31. The departmental inquiry proceedings qua charge sheet No.8136 dated 25.07.2013 and charge sheet No.15828 dated 08.12.2014 are proved to have been conducted in a fair and just manner. The workman / AW1 in his cross-examination admitted as correct that fair inquiry was conducted by the Inquiry Officer. AW1 admitted as correct that the inquiry stand proved against him.

32. Accordingly, issue No.1 is decided against the workers' union / workman and in favour of the management. Issue No.3 is decided in favour of the management and against the workers' union / workman.

Issue No. 2 :

33. Onus to prove this issue is on the management.

34. The management has failed to prove as to what material facts are concealed by the workers' union or the workman. The history of punishment as elaborated in the written statement / reply and affidavit Exhibit 'MW1/A' is not the basis of the order of punishment Exhibit 'W4' and the order of appeal Exhibit 'W6'. Thus, no material fact is proved to have been concealed by the workers' union / workman.

35. Accordingly, this issue is decided against the management and in favour of the workers' union / workman.

Relief :

36. In the view of foregoing finding on the issues No.1 & 3 above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . .,

Dated : 09.04.2024.

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 24th May, 2024

No. 13/2/120-HII(2)-2024/8268.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **69/2021** dated **22.03.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

PIRTHVI CHAND, H. NO. 322, PIPLIWALA TOWN, MANIMAJRA, CHANDIGARH. (Workman)

AND

M/S SINGLA TEA CORPORATION, BOOTH NO.15, GRAIN MARKET, SECTOR 26, CHANDIGARH THROUGH ITS PARTNER/PROPRIETOR. (Management)

AWARD

1. Pirthvi Chand, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed by the management 20 years back. The workman remained in the continuous & un-interrupted employment up to 14.06.2019 when his services were illegally & wrongly terminated by refusing of work. At the time of termination, the workman was working as Salesman and was drawing ₹ 13,000/-per month as wages. On 15.06.2019 when the workman went to attend his normal duty, he was refused work by the management without assigning any reason and notice. Refusal of work, which amounts to termination is retrenchment under Section 2(o) of the ID Act. The management has violated Section 25F of the ID Act. No charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. Violation of the same makes the termination void. For his reinstatement the workman served upon the management a demand notice dated 20.06.2019. The management neither replied the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for his intervention. No settlement could be made possible within the stipulated period. The action in terminating services of the workman is illegal, wrongful, motivated, against the principles of natural justice and unfair labour practice. The workman remained employed during the period i.e. from the date of termination to till date. Prayer is made that the workman be reinstated with continuity with continuity of service, full back wages and all consequential benefits.

3. On notice, the management appeared through its authorized representative and contested the claim of the workman by filing written statement on 18.02.2022, wherein preliminary objections are raised on the ground that the claim statement filed by the workman is gross abuse of process of law and has been filed with the sole purpose of harassing and pressurising the management to submit the unreasonable demand as the claim statement is false, frivolous, baseless and devoid of any merits and the same deserves dismissal. The management is running a shop in the trade name of M/s Singla Tea Corporation in Sector 26, Chandigarh; which does not fall under the ambit of 'industry' as defined under Section 2(j) of the ID Act. Therefore, the claim statement is not maintainable against the management. The workman was used to be engaged as and when required basis and was never engaged on permanent basis by the management. There was no relationship of employer and employee between the management and the workman.

4. On merits, it is stated that the management never appointed the workman and no such appointment letter was ever issued to the workman. The services of the workman was availed as and when required basis as he used to do labour work in Grain Market Sector 26 and the workman was asked to do the labour work

when the workman was available. The workman was not regular worker of the management what to say Salesman. The workman himself stopped coming to work and he was never refused work by the management. The management appeared before the Conciliation Authority but due to the attitude of the workman, there was no settlement. The management never terminated the services of the workman and never refused the work. It is the workman who got some other work and gainfully employed somewhere, never came back to work. Remaining averments of the claim statement are denied. Prayer is made that the claim of the workman may be dismissed.

5. The workman filed rejoinder, wherein the contents of written statement except the admitted facts of the claim are denied as wrong and the averments of the statement of claim are reiterated.

6. From the pleadings of the parties, following issues were framed vide order dated 11.03.2022 :-

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether no employer-employee relationship exist between the management and workman ? OPM
3. Whether the management is not an 'industry' as defined under Section 2(j) of the ID Act ? OPM
4. Relief.

7. In evidence, Prithvi Chand examined himself as AW1 and tendered into evidence his affidavit Exhibit 'AW1/A'. On 09.01.2024 the workman closed his evidence in affirmative.

8. On the other hand, the management examined MW1 Ram Dass - Proprietor, M/s Singla Tea Corporation, who tendered his affidavit Exhibit 'MW1/A'. On 01.03.2024 Learned Representative for the management closed oral evidence on behalf of the management.

9. During the pendency of the present industrial dispute, on 22.03.2024, Learned Representative for the workman got recorded his statement, which is reproduced as under :-

"The workman does not intend to pursue further with the present industrial dispute reference. It may be disposed off accordingly."

10. Heard. In the view of statement of Learned Representative for the workman, the present industrial dispute is disposed off being not pressed. Consequently, issues framed in this case have become redundant and stand decided accordingly. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

Dated : 22.03.2024.

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 24th May, 2024

No. 13/1/9769-HII(2)-2024/8270.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **48/2021** dated **03.04.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

BHUPINDER SINGH S/O SH. PARKASH SINGH, R/O HOUSE NO.138, VILLAGE JALLAH, DISTRICT FATEGARH SAHIB, SIRHIND. (Workman)

AND

1. M/S DAINIK BHASKAR CORPORATION LIMITED, PLOT NO.280, SARKHEJ GHANDINAGAR HIGHWAY, NEAR YMCA CLUB, MAKARBA, AHMEDABAD, GUJARAT - 380051 THROUGH ITS MANAGING DIRECTOR.
2. DAINIK BHASKAR NEWSPAPER, DAINIK BHASKAR GROUP LIMITED, CHANDIGARH UNIT, PLOT NO.11-12, GROUND FLOOR, DAKSHIN MARG, SECTOR 25, CHANDIGARH - 160036 THROUGH ITS AGM HR & ADMN. (Managements)

AWARD

1. Vide Endorsement No.13/1/9769-HII(2)-2021/4619 Dated 27.04.2021 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the claim application filed by Bhupinder Singh (*hereinafter referred "claimant"*) to the M/s Dainik Bhaskar Corporation Limited & Another (*hereinafter referred "management"*) under Section 17(1) of the Working Journalists & Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955 (*hereinafter in short referred "Act 1955"*) in following words :-

"Whether the arrears of revision of pay to namely Sh. Bhupinder Singh S/o Sh. Parkash Singh, R/o House No.138, Village Jallah, District Fatehgarh Sahib, Sirhind (Workman/ applicant) were to be paid by M/s Dainik Bhaskar Corporation Limited, Plot No.280, Sarkhej Ghandinagar Highway, Near YMCA Club, Makarba, Ahmedabad, Gujarat - 380051 through its Managing Director and Dainik Bhaskar Newspaper, Dainik Bhaskar Group Limited, Chandigarh Unit, Plot No.11-12, Ground Floor, Dakshin Marg, Sector 25, Chandigarh - 160036 through its AGM HR & Admn. (Managements) according to the recommendations of the Majithia Wage Board and also as per the direction of the Hon'ble Supreme Court of India under The Working Journalists And Other Newspaper Employees (Conditions of Service) And Miscellaneous Provision Act, 1955 and in compliance of the orders dated 28.04.2015, 12.01.2016, 14.03.2016, 23.08.2016 passed by the Hon'ble Supreme Court of India in CCP No.128/2015 and 129/2015 AND WP (Civil) 246/2011 dated 07.02.2014; if so, to what effect and to what relief he is entitled to, if any ?"

2. Upon notice, the workman appeared through his Representative Shri Subhash Talwar. Briefly stated facts of the claim application are that on 01.01.2008 the applicant (*here-in-after 'claimant-workman'*) was appointed as Helper by the management of Dainik Bhaskar Newspaper having its registered office at Sector 25, Chandigarh. The claimant-workman was promoted as Unit Attendant on 10.02.2014. The claimant-workman is drawing ₹ 13,500/- per month as wages including all perks & allowances. The claimant-workman was regular employee of the management and is allotted employee ID-13575 and is posted at Sirhind. On account of revision of pay & other allowances accrued on the acceptance of recommendation

of Majithia Wage Board, which was accepted by the Government of India and is due from management, the claimant-workman is fully competent to invoke the jurisdiction of the Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh vested under Section 17(1) of the Act 1955. There is no complaint against work & conduct of the claimant-workman. His work & conduct is appreciated by all his colleagues and superiors. The claimant-workman is regularly getting all the benefits payable under different acts and provisions. The services of the claimant-workman were being regulated under the Act 1955, which was enacted to regulate the certain conditions of service of working journalists and other persons employed in the newspaper establishment. The Central Government constituted two Wage Boards in the year 2007 under Section 9 and Section 13(c) of the Act 1955 for the purpose of enabling the Central Government to fix and revise the rates of wages for working journalists and non-journalists employees. The Wage Board thoroughly examined the issue of revised rates of wages after calling all newspaper establishments and finally sent their recommendation for fixing and revising the rates of wages to the Government of India on 25.10.2011 and was officially published in the Gazette on 11.11.2011, wherein employees have been categorised in groups and the claimant-workman being a Helper / Unit Attendant falls within the ambit of Group 6 Factory Staff of the schedule - III (Grouping of non-journalist Newspapers Employees Factory staff), which is evident at page 33 & 37 of the report. The amount which is liable to be recovered from the management based on revised pay on the basis of Majithia Wage Board is legitimate and legal dues of the claimant-workman. The claimant-workman has got his arrear calculated by a competent Chartered Accountant as per the Majithia Wage Board recommendations w.e.f. 11.11.2011 to 01.08.2020 which comes to ₹ 85,49,747/-. The management intentionally and deliberately not implementing the recommendation of Majithia Wage Board despite regular demand of the employees. Having been aggrieved by the recommendations of the Majithia Wage Board, numerous Writ Petitions were filed by various Newspapers challenging the recommendations of Majithia Wage Board before the Hon'ble Supreme Court of India. The matter was thoroughly examined by the Hon'ble Apex Court and the same was rejected vide order dated 07.02.2014. Consequently, the recommendations of the Majithia Wage Board have attained finality and are binding in nature. Prayer is made that the management may be issued direction for implementing the recommendations of the Majithia Wage Board and the claimant-workman be paid a sum of ₹ 85,49,747/- as arrears of wages along with interest @ 12% per annum from the date of accrual till actual realisation.

3. On notice, the management appeared through its authorized representative and contested the claim of the workman by filing written statement on 16.01.2024, wherein it is stated that the claimant-workman filed a fresh claim claiming refixation of pay and for recovery of ₹ 85,49,747/- as arrears of pay up to 01.08.2020 on account of implementation of the recommendation of the Majithia Wage Board vide notification dated 11.11.2011 issued by Central Government by putting the wrong facts as well as by leveling false allegations and by presenting the fabricated calculation sheet before this Tribunal and as such the present claim is liable to be dismissed with exemplary costs. The claimant-workman does not fall under the definition of 'workman' as per Section 2(s)(ii) to (iv) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*). As per nature as well as status of post, the claimant-workman does not fall within the definition of 'workman' as per Section 2 of the ID Act. The procedure under the scheme of the Act 1955 aggrieved employee seeking to recover any amount due under the Act 1955 is required to first move an application before the State Government. As per Rule 36 of the Act 1955, such an application is required to be made in prescribed Form 'C' addressed to the Secretary to the State Government along with details of the amount claimed, preceded by a fifteen days prior notice regarding payment to the concerned newspaper establishment. In the case in hand, no such application along with the details of the amount claimed; much less in the prescribed format was made to the Secretary of the State Government. Needless to mention no fifteen days prior notice was also issued to the claimant-workman by the respondent (*here-in-after 'management'*) as required under Rule 36 of the Act 1955. Thus, in the absence of fulfilling the conditions precedent for initiating action under Section 17 legally no proceedings could have been initiated at the instance of the management against the claimant-workman. Hence, the proceeding in question is void ab-initio. The claim of the claimant-workman is also hopelessly time barred. It is well settled law that a civil suit does not lie after the expiry of 3 years of the cause of action and in the present case, the demand notice was received by the Assistant Labour Commissioner, Chandigarh in January, 2021 for the benefits claimed by the claimant-workman for the period of 2011. The claimant-workman has annexed the calculation sheet showing the turnover of the management only to get benefit from the answering management,

which is dispute in question of fact and cannot be decided in summary proceedings, before this Tribunal as such the present claim is liable to be dismissed as a dispute in question of fact can only be adjudicated upon by the concerned Civil Court. The basis of computation of the amount, as claimed by the claimant-workman, has not been indicated by the claimant-workman and revelation of the identity of the persons who has computed the said amount has not been revealed by the claimant-workman. The answering respondents do have the spirit of honour judgment delivered by the Hon'ble Supreme Court of India but in the present claim, the claimant-workman is not entitled for any benefit in compliance of the judgments delivered by the Hon'ble Supreme Court of India. The claim made in the instant case by the claimant-workman is not maintainable under the provisions of Section 17 of the Act 1955 as no amount is due and further the amount as claimed by the claimant-workman is based on non-existing right. As per group of the claimant-workman and class of the newspaper establishment of the claimant-workman has received the wages and other benefits more than the Majithia Wage Board recommendations. The employer-management is paying the wages as per Section 20(j) of the Majithia Wage Board recommendations and no alleged amount of ₹ 81,32,872/- along with any interest is due. The employees were informed about the Majithia Wage Board recommendations and the option for 20(j) of the Majithia Wage Board recommendations for payment of existing pay scale and existing emolument by affixing copy of Majithia Wage Board recommendations and notice on the notice board of the company. The management has fully complied with the provision of Majithia Wage Board issued by the Central Government under notification dated 11.11.2011. The claimant-workman is already receiving the wages as per para 20(j) of the Majithia Wage Board recommendations. The claimant-workman has chosen / opted to retain his existing wage and existing emoluments, as per para 20(j) of the Majithia Wage Board at his own voluntarily. The answering management has fully paid to the claimant-workman as per para 20(j). The claimant-workman has never raise any question or not made any complaint to the management or to any competent authority regarding the undertaking, which he had given within specified time of three weeks. Now after lapse of long time claimant-workman is raising dispute of non-payment of wages as per Majithia Wage Board recommendations, which is simply after thought, illegal and baseless and no complaint can be entertained after passing almost nine years of prescribed period. The claimant-workman has prepared the calculation sheet whimsically without considering the class of the management's Chandigarh establishment and also has not mentioned the class of the management's Chandigarh establishment and also has not put any documents to show the classification of the management's Chandigarh establishment. The DB Corp. Ltd. is a group of businesses including textile, MYFM, Digital Media, Real Estate, Power and Denim. As per Majithia Wage Board recommendations only business of newspaper establishment i.e. circulation and advertisement of newspaper shall be counted. Prayer is made that the applicant is not entitled for any benefit, as claimed and his claim may be dismissed.

4. During the pendency of the present reference, the claimant-workman got recorded his statement, which is reproduced as under :-

"Stated that I do not intend to proceed further with the present Industrial Dispute Reference / claim statement. Therefore, it may be disposed off being not pressed."

5. Heard. In the view of statement of the claimant-workman, the present industrial dispute is disposed off being not pressed. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152.

Dated : 03.04.2024.

Secretary Labour,
Chandigarh Administration.

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 30th May, 2024

No. 108.—In exercise of the powers vested in them by Section 139 (b) of the Code of Civil Procedure, 1908; Section 297(1)(b) of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) and Section 3(2)(a) of the Oaths Act, 1969 (Act No. 44 of 1969), Hon'ble the acting Chief Justice and Hon'ble Judges are pleased to appoint :

Sr. No	Name of the Advocates/ Father's/Husband's Name/ Place for which applied for	Remarks
1	Sh. Shadi Lal Suri s/o Late Sh. Kishan Chand, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.
2	Sh. Sohan Singh s/o Sh. Ram Chand, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.
3	Sh. Dev Raj Garga s/o Sh. Bansi Ram, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.
4	Sh. Ashok Kumar Kakkar s/o Sh. Krishan Lal, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.
5	Sh. Rishi Raj Chachra s/o Late Sh. Hem Raj, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.
6	Ms. Mandeep Kaur d/o Sh. Ajmer Singh, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.
7	Ms. Sonia Kulrattan Kaur d/o Sh. Hardial Singh Bajwa, District Courts, Chandigarh	For a period of two years from the date of notification, subject to the curtailment, if any.

as Oath Commissioners for administering oaths and affirmations to the deponents of affidavits under the provisions of the aforesaid Acts in accordance with the terms specified in Rule 5, Chapter 12-B of the High Court Rules and Orders, Volume-IV.

BY ORDER OF HON'BLE THE ACTING CHIEF JUSTICE AND HON'BLE JUDGES

(Sd.) . . . ,

Assistant Registrar (Rules),
for Registrar General.

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 30th May, 2024

No. 109.—In exercise of the powers vested in them by Section 139 (b) of the Code of Civil Procedure, 1908; Section 297(1)(b) of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) and Section 3(2)(a) of the Oaths Act, 1969 (Act No. 44 of 1969), Hon'ble the Acting Chief Justice and Hon'ble Judges are pleased to appoint :

Sr. No	Name of the Advocates/ Father's/ Name/ Place for which applied for	Remarks
1	Sh. Parmod Kumar s/o Sh. Surender Singh, High Court Premises	For a period of two years from the date of notification, subject to the curtailment, if any.

as Oath Commissioner for administering oaths and affirmations to the deponents of affidavits under the provisions of the aforesaid Acts in accordance with the terms specified in Rule 5, Chapter 12-B of the High Court Rules and Orders, Volume-IV.

BY ORDER OF HON'BLE THE ACTING CHIEF JUSTICE AND HON'BLE JUDGES

(Sd.) . . . ,

Assistant Registrar (Rules),
for Registrar General.

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CORRECTION SLIP

The 31st May, 2024

No. 88 Rules/II.D4.—Rule 25(1) of Mediation and Conciliation Rules contained in Part-II of Chapter-I, Part-O of Punjab and Haryana High Court Rules and Orders, Volume-I is amended in the following manner :-

"25. Fee of Mediator/Conciliator and costs:

- (1) **The remuneration/fee to be paid to the mediator for each successful and failed mediation shall be such as may be determined by Mediation and Conciliation Committee of this High Court from time to time and approved by Hon'ble the Chief Justice.**

The Court may, however, in its discretion fix a higher fee in either case."

BY ORDER OF HON'BLE THE ACTING CHIEF JUSTICE AND JUDGES.

(Sd.) . . . ,

(ARUN KUMAR AGGARWAL),
Registrar (Rules),
for Registrar General.

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CORRECTION SLIP

The 31st May, 2024

No. 89 Rules/II.D4.—The existing Rule 4 of Chapter 1 Part M(i) - Instructions for the guidance of Commissioners' be renumbered as Rule 4(1) and the following rule be inserted as sub-rule 2 of Rule 4, Part-M(i) of Chapter-1, Volume-I of Punjab and Haryana High Court Rules and Orders :-

"4(2) Delimitation or Demarcation using Electronic Total Station Machine etc. :- The delimitation of boundary and demarcation can also be carried out with the help of "Electronic Total Station (ETS) Machine" and by using Dual Frequency Global Navigation Satellite System (GNSS) receiver in post processing mode or by "Real Time Kinematic (RTK)" method using Continuously Operating Reference System (CORS) Network and GNSS Rover or by any other electronic method recognized by the State Government by way of notification/instruction issued from time to time."

BY ORDER OF HON'BLE THE ACTING CHIEF JUSTICE AND JUDGES.

(Sd.) . . . ,

(ARUN KUMAR AGGARWAL),
Registrar (Rules),
for Registrar General.

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CORRECTION SLIP

The 31st May, 2024

No. 90 Rules/II.D4.—The figure '**₹1,00,00,000**' under the heading 'Model fee' against the entry 'Above ₹ 10,00,00,000 and up to ₹ 20,00,00,000' under the heading 'Sum in dispute' in Schedule A-Fee Schedule in Rule 15-Arbitrators' Fees of the Chandigarh Arbitration Centre (CAC) Rules, 2018 contained in Chapter 4, Part-E of Punjab and Haryana High Court Rules and Orders-Volume-I is substituted by the figure '**₹10,00,00,000**'.

BY ORDER OF HON'BLE THE ACTING CHIEF JUSTICE AND JUDGES.

(Sd.) . . . ,

(ARUN KUMAR AGGARWAL),
Registrar (Rules),
for Registrar General.

CHANDIGARH ADMINISTRATION
DEPARTMENT OF PERSONNEL

Notification

The 30th May, 2024

No. 22/6/20-IH(4)-2024/7054.—In exercise of the powers conferred by Section 166 of the Representation of People Act, 1951, the Administrator, U.T. Chandigarh is pleased to authorize Deputy Commissioner-cum-District Election Officer, U.T. Chandigarh to exercise the powers and discharge the duties under Sections 160 to 165 of the said Act.

RAJEEV VERMA, IAS,
Adviser to the Administrator,
U.T., Chandigarh.

CHANGE OF NAME

I, Mehrwant Singh Dhillon, S/o Sewa Singh Dhillon, R/o # 89, Sector 18-A, Chandigarh, state that in some documents my name is written as Mehr Bant Singh, M.S. Dhillon and Mehrwant Singh Dhillon. It is to confirm that above is one and same person.

[771-1]

I, Siya Dulari W/o Mo Anjar, R/o # 1630, Faidan Nizampur, Chandigarh have changed my name from Siya Dulari To Zoya Bano.

[772-1]

I, Mohinder Paul, S/o Sh. Jagan Nath, R/o House No. 102, N.A.C. Sector 13, Shivalik Enclave Manimajra, Chandigarh have changed my name from Mohinder Paul to Mohinder Paul Goswami.

[773-1]

I, Kamal Bhushan, S/o Late Mr. Ram Saran Das, R/o House No. 2633, Sector 44-C, Chandigarh. I have changed my name from Kamal Bhushan to Kamal Bhushan Dua.

[774-1]

I, Raman, S/o Shri Rakesh Kumar, R/o # 3302, Sector 46-C, Chandigarh have changed my name from Raman to Raman Kumar.

[775-1]

It is informed that Bhupinder Bhandari, Bhupinder Singh Bhandari and Bhupinder Singh S/o Shri Prem Singh R/o H.No. 2236-A, Sector 27-C, Chandigarh mentioned in different documents are name of mine, I am known by all these names.

[776-1]

I, Manisha Singh, D/o Shri Rodas Singh, R/o # 1202, Sector 31-B, Chandigarh, have changed my name from Manisha Singh to Monika.

[777-1]

I, Vicky Rani, W/o Vijay Kumar, R/o House No. 1904, Sector 39-B, Chandigarh, have changed my name from Vicky Rani to Mili Kumar after my marriage.

[778-1]

I, Kriti, D/o Mr. Ashwani Kumar, R/o H. No. 2306/4, Mariwala Town Manimajra, Chandigarh, have changed my name from Kriti to Kriti Singh Rohilla.

[779-1]

I, Meenakshi Maurya, D/o Ghanshyam Maurya, R/o 1041, Kishangarh, Chandigarh, have changed my name to Meenakshi.

[780-1]

I, Priyanka, W/o Sanjeev Kumar, # 117, Sector 15-A, Chandigarh, hereby declare that in my PAN Card my name is mentioned as Priyanka Kanojia and my father name as Gian Chand Kanojia but my correct name is Priyanka and my father name is Gyan Chand. It is further declare that in my son's date of birth my husband name wrongly mentioned as Sanjeev Kanojia instead of Sanjeev Kumar.

[781-1]

I, Nasima, W/o Sh. Nishar Ahamed, R/o # House No. 2053-A, Small Flats, Dhanas, Chandigarh. That I have changed my name from Nasima to Naseema.

[782-1]

I, Keksha, D/o Sh. Nissar Ahmed, R/o # House No. 2053-A, Small Flats, Dhanas, Chandigarh. That I have changed my name from Keksha to Kehkasha.

[783-1]

I, Malavika Sameer Wagle, W/o Rishabh Dev Bhanot, R/o H. No. 7, Sector 32-A, Chandigarh, have changed my name from Malavika Sameer Wagle to Malavika Wagle Bhanot.

[784-1]

I, Madhu, D/o Munni Lal and W/o Rinku Rawat, R/o # 375, Kaimbwala, Chandigarh, have changed my name to Madhu Rawat.

[785-1]

I, Prachi Tomar, W/o Rishi Gulati, # 2960, Sector 42-C, Chandigarh, have changed my name to Prachi Gulati.

[786-1]

I, Sandeep Singh, S/o Sukhwinder Singh, # 2463, LIG Quaters, Sector 52, Chandigarh, have changed my name to Sandeep Singh Randhawa.

[787-1]

I, Meena Kumari, W/o Late Brij Mohan, R/o House No. 575, Sector 41-A, Chandigarh, have changed my name to Sonia Kumari.

[788-1]

I, Narender Kumar Sharma, S/o Madho Parshad Sharma, # 3385/1, Sector 23-D, Chandigarh, do hereby declare that in my Passport my Father's name wrongly mentioned as Madho Parshad and wife name wrongly mentioned as Gayatri. The correct name of my father is Madho Parshad Sharma and wife name is Geetika Sharma.

[789-1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."